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SUBJECT: KENYA ELECTIONS: PARLIAMENT COMPOSITION - A
DELICATE BALANCE OF FORCES

REF: A. NAIROBI 00185

[1](#)B. 07 NAIROBI 04759

[1](#)C. 07 NAIROBI 04647

[1](#)D. 07 NAIROBI 01150

[1](#)E. 03 SECSTATE 04208

SUMMARY

[1](#)1. (SBU) Unlike Kenya's contentious presidential election, the parliamentary elections proceeded relatively smoothly and with a clear and credible outcome. With 207 of 210 constituencies reporting (3 constituencies will be re-run), Raila Odinga's Orange Democratic Movement (ODM) won 99 of the 207 seats; making it by far the largest party in Kenya's 10th Parliament. Combined with its NARC ally, ODM will control at least 102 seats. Despite its impressive showing and the election of an ODM Speaker and Deputy Speaker at the Parliament's January 15 session (reftel A), ODM control of parliament is not a forgone conclusion. Although President Kibaki's PNU party won only 43 seats, combined with its coalition parties and the January 8 agreement of Kalonzo Musyoka's ODM party to enter government with PNU, the president's supporters will possess at least 94 seats. Eight micro-parties - each with two MPs or less, round out the composition of the incoming 10th Parliament. Including the 12 nominated members of parliament (allocated according to relative party strength), but subtracting the seat previously held by the new Speaker (who must resign), ODM and its coalition partner currently control 106 seats; five shy of a majority. (Until by-elections are held, the total number of seats is 218 -- 206 elected and 12 nominated.) PNU and its partners will control at least 100 (94 elected and six nominated). Fifteen women candidates were elected to the Tenth Parliament - a low number in absolute terms, but a nearly 100 per cent increase over 2002. The mood of the voters was decidedly anti-incumbent: only 30 percent of MPs from the 9th Parliament were returned by voters. Twenty-one out of 32 sitting Ministers and 22 of 40 assistant ministers lost their seats.

[1](#)2. (SBU) Given the nature of Kenyan politics, PNU still hopes to find the additional votes needed to form a majority: it is not clear whether they would come from unaffiliated micro-parties or defecting ODM MPs. For either ODM or PNU, ruling with a slim majority would be fraught with difficulties as either one would be open to blackmail by its coalition partners, destabilizing its hold on the legislature. Contacts agree that the chances of an ODM-sponsored no-confidence vote succeeding is exceptionally small. Thus, the most likely scenario for the Tenth Parliament is a shifting majority on a vote-by-vote basis.

The result will either be gridlock with minimal legislative achievement or a successful session based on an agreed legislative agenda, including constitutional and electoral reform. This is the option that we continue to promote and we hope that wiser and calmer heads on each side will agree.
End Summary

Valid parliamentary results

¶3. (SBU) Although the outcome of the presidential elections is highly controversial, we believe the parliamentary election results are a more valid reflection of the Kenyan voters' will. This conclusion is supported by the following: the presence of multiple party agents in all polling stations (in party strongholds, such as pro-ODM Nyanza province or pro-PNU Central province, there was significant competition at the parliamentary level and minimal competition at the presidential level); the large measure of agreement between vote figures announced by the ECK in Nairobi with those announced at constituency-level tally centers (which were empowered to announce official and final results for local councilor and parliamentary races); and the general lack of complaints from losing parliamentary candidates. Taken together, these factors give us a high degree of confidence in the outcome of parliamentary elections.

And the ballot says: ODM trounces PNU, but...

¶4. (SBU) Voters handed ODM a clear victory over PNU in parliamentary elections. There are 210 constituencies, but only 206 seats are currently filled. Voting in 2 constituencies (Kakamunji/Nairobi and Kilgoris/Rift Valley) was annulled due to election-day violence; another will be re-run due to a tied vote count (Wajir North/NorthEastern), and a fourth will be re-run to replace the newly elected Speaker (Emuhaya/Western). Of these four constituencies we expect ODM to win in Kilgoris and Emuhaya, while Wajir and Kakamunji could go either way. Currently ODM candidates control 98 of the directly elected seats. PNU won the second largest number of seats with 43. ODM-K won the third largest number of seats with 16, followed by PNU-affiliate KANU with 14 seats. PNU-affiliates Safina and NARC-K won five and four seats, respectively, while ODM-allied NARC won three.

ODM	98	
PNU		43
ODM-K (in government with PNU)		16
KANU (PNU coalition)		14
SAFINA (PNU coalition)		5
NARC-K (PNU coalition)		4
NARC (ODM ally)	3	
FORD-P (PNU coalition)		3
Chama Cha Uzalendo		2
Party of Independent Candidates		2
New FORD-K (PNU coalition)		2
Democratic Party (PNU coalition)		2
Sisi Kwa Sisi (PNU coalition)		2

In addition, Mazingira (the Greens), FORD-K, FORD-Asili (all PNU coalition members), PPK, KENDA, United Democratic Movement, KADDU, PDP, NLP, and KADU-Asili (all unaligned) each won one seat.

¶5. (SBU) In addition to the 210 directly-elected seats, an additional 12 appointed seats are allocated to the strongest parties in proportion to the number of seats they hold among elected MPs. ODM will nominate six of the 12 seats, PNU will nominate three, ODM-K will nominate two; and KANU will nominate one. Initially, it was expected that Safina had earned one nominated MP slot, but the ECK ruled that ODM-K was entitled to two seats. Safina has threatened a lawsuit. Therefore, ODM (combined with its NARC affiliate) currently control 107 seats, five short of a working majority. Taking into account the four by-elections to be held, ODM should boost that number to at least 109 seats: an ODM sweep of all four by-elections would boost the number further to 111 seats

- one shy of a majority. PNU and its coalition partners combined with ODM-K will control 100 seats.

¶6. (SBU) Allocating the 12 nominated MPs has created some controversy within the parties that earned them, as they try to balance varying constituencies within their ranks. ODM nominated Joseph Nyaga, the only Kikuyu among its leadership, who lost his MP seat; Musa Sirma; Sheikh Dor - the Secretary General of Council of Imams and Preachers in Kenya (reftel D); and three women, Janet Ong'era - ODM Executive Director; Sofia Ahmed - a women's leader from North Eastern Province; and women's activist, Rachel Shebesh. PNU tried to strike a balance between increasing geographic diversity of the party's MPs with rewarding the many long-time Kibaki loyalists who lost their seats (or in the case of Peter Nyamweya did not contest the election and instead opted to run Kibaki's re-election campaign). In the end, PNU nominated former Foreign Minister Rafael Tuju (ethnic Luo), Nyamweya, and former Mombasa Mayor Taib Ali Taib, who failed in his bid to unseat top ODM leader from Mombasa Najib Balala. We do not yet have information on the other nominated MPs, although ODM-K is expected to nominate Julia Odhiambo, who was Kalonzo Musyoka's vice-presidential candidate, but who lost her parliamentary race.

Shifting parliamentary majority likely

¶7. (SBU) The parliamentary balance is tightly drawn. The election of an ODM Speaker (reftel A) demonstrates that ODM currently has a committed majority, albeit a slim one. Both ODM and PNU hope they can assemble a parliamentary majority, at least on a vote-by-vote basis. They will compete for the support of unaffiliated micro-parties. Given the money-driven nature of Kenyan politics, the lure of ministerial positions and jobs for supporters in parastatals may prove irresistible to smaller parties. The governing party, PNU, has the advantage in this contest. While MPs from any parties can vote with the government, a recent amendment to relevant legislation prevents MPs from assuming ministerial positions without the assent of their party (a common practice in the Ninth Parliament). Given this situation, the most likely outcome is a shifting majority, cobbled together on a vote-by-vote basis. Hopefully, wiser, calmer heads on each side will interpret the outcome of the Speaker election to mean that a successful legislative session is possible only if based on a legislative agenda negotiated and agreed by the two major parties.

¶8. (SBU) Smaller non-affiliated parties are trying to maximize their leverage in parliament and have formed the Small Parties Parliamentary Group (SPPG). According to a USAID contractor working extensively with Parliament, parliamentary rules do not recognize such groupings, so the SPPG's impact is unclear. Government entreaties to smaller parties to firm up a ruling majority may undermine the effectiveness of this initiative.

Party Strength by Region: ODM dominates

¶9. (SBU) Analysis of parliamentary results by regions shows ODM's breadth of support among the electorate and PNU's corresponding weakness. ODM won an absolute majority of parliamentary seats in six of Kenya's eight provinces; it won over two-thirds of the seats in Nyanza, Western, Rift Valley, and Nairobi. In contrast, PNU was able to gain a majority of seats only in its Central Province stronghold. Taking its coalition parties into account, the PNU coalition also managed to carry Eastern Province (aided by ODM-K winning 15 seats). PNU won no seats in ODM's Nyanza stronghold, only two in Western Province, and only 9 of Rift Valley's 49 seats. Even if PNU succeeds in forming a functioning parliamentary majority, it will be perceived as highly suspect in much of the country, which voted overwhelmingly for ODM. One partial explanation for ODM's dominance is that, in most cases, ODM parliamentary candidates faced very little pro-Raila competition. Most voters who supported Raila for president

also voted for ODM parliamentary candidates. On the other hand, PNU parliamentary candidates were frequently opposed by several pro-Kibaki parliamentary candidates. Other elements of the PNU coalition competed amongst themselves, splitting their vote (reftel C).

Crystal ball revisited

¶10. (SBU) As predicted in reftel B, there was a high rate of turnover from the Ninth to the Tenth Parliament. According to our information, 196 incumbents ran for election. Of the 196, 143 (73 per cent) ran as candidates of different parties than they did when elected in 2002. This lack of loyalty was returned by voters: only 66 were returned. Altogether, only 30 percent of the members of the 9th parliament returned to serve in the 10th parliament. An extremely high number of sitting ministers and assistant ministers (who are required to be MPs) lost re-election bids. All 32 ministers ran for re-election: 21 lost. Assistant Ministers fared only slightly better: 22 of 40 lost their parliamentary seats. As we predicted, (former) Foreign Minister Raphael Tuju, Labor Minister Newton Kulundu, Regional Development Minister Abdi Mohamed, Tourism Minister Morris Dzoro, and Trade Minister Mukhisa Kutuyi all lost. In addition, we evaluated former Vice President Moody Awori, former Defense Minister Njenga Karume, and Livestock Minister Joseph Munyao as being in trouble: all lost. In addition, as predicted, two MPs close to former President Moi also lost; his son Gideon and his hatchet man, Nicholas Biwott. We were less accurate in predicting ODM candidates who would lose. Only Joseph Nyaga - the sole Kikuyu in ODM's leadership - lost his seat. The others we assessed as being in trouble were carried to victory by the ODM parliamentary wave.

Women parliamentarians: modest progress

¶11. (SBU) Fifteen women were elected to the Tenth parliament. Although the number of women elected to parliament remains low in absolute terms, it is a nearly two-fold increase over 2002, when 8 were elected. Seven of the 15 women parliamentarians are from the ODM bloc, while 5 represent the PNU bloc. Three represent unaligned parties. The regional breakdown of elected women MPs is: six from Rift Valley, three each from Nairobi and Eastern, two from Central, and one from Coast. Nyanza, Northeastern and Western provinces failed to elect any women MPs. Several women are likely to be among the 12 MPs nominated by parties, so the final number of women MPs is likely to be higher than the total of 18 women MPs in the Ninth Parliament.

¶12. (SBU) The 269 women running for parliament in 119 constituencies represented 10 percent of all candidates, while women will constitute only 7 percent of incoming parliamentarians. A slightly more positive spin is that women won 13 percent of all constituencies they contested, so they were elected in a slightly higher proportion than their strength as a percentage of all candidates. Significantly, incumbent women MPs bucked the anti-incumbent trend: of 9 incumbent female MPs who chose to run for re-election, 5 were re-elected: a 55 percent success rate for women incumbents, compared with a 30 percent success rate for incumbents overall. The lesson seems to be that, once women overcome the myriad difficulties Kenyan political culture presents and obtain a position of authority, they gain the respect and loyalty of their constituents.

A rogues gallery? Famous and infamous MPs

¶13. (SBU) The Tenth Parliament will have its share of scoundrels and a few interesting new personalities. A check of consular records shows that seven incoming MPs have visa lookouts for involvement in money laundering or large scale corruption. An ODM MP has a human trafficking hit. A second MP was denied a visa due to his wife's human trafficking activities. Two more are possible subjects of visa

ineligibilities for criminal activity in the US. George Saitoti, who is implicated in the Goldenberg financial mega-scandal of the 1990s, was returned to parliament and promoted to Minister of Internal Security - making him Kenya's top cop. ODM Pentagon member William Ruto, a key figure in political/ethnic violence in the Rift Valley in 1992, 1997, and post-2007 election, also returns to parliament. Ruto was charged in 2004 with defrauding the National Social Security fund in connection with illegal land transfers. His case has not yet come to trial. ODM's Zakayo Cheruiyot, implicated in Rift Valley ethnic violence and who is suspected of abetting International Criminal Tribunal for Rwanda fugitive Felicien Kabuga (reftel D), also returns. Kenya's most notorious drug trafficker, John Harun Mwau, was elected MP on a micro-party ticket. Finally, televangelist and self-proclaimed "Bishop" Margaret Wanjiru Kariuki was elected to represent Nairobi's Starehe constituency despite facing allegations of bigamy.

Prospects for a no-confidence vote: nil

¶14. (SBU) Political observers are unanimous that an ODM-sponsored vote of no confidence in President Kibaki's government has an exceptionally small chance of success. While a successful no-confidence vote would force a re-run of the presidential election, it would also dissolve parliament and force MPs to hit the campaign trail again before they have a chance to replenish their campaign-depleted bank account. Micro-party MPs - whose support would be essential to the success of a no-confidence vote - are unlikely to risk their seats (and the nearly 1 million USD salary it brings over five years) to help ODM achieve its political goals.

COMMENT

¶15. (SBU) Looking into the future, ODM's party discipline is strengthened by the election of its candidates as Speaker and Deputy Speaker. Thus, the most likely scenario for the Tenth Parliament is a shifting majority on a vote-by-vote basis. The result will either be gridlock with minimal legislative achievement or a successful session based on an agreed legislative agenda, negotiated between the two major blocs - ODM and PNU, including constitutional and electoral reform. This is the option that we continue to promote. We hope that wiser and calmer heads on each side will agree. Once these reforms are achieved, the basis will exist to tackle fundamental underlying causes of instability - such as overcentralization and the land issue. We expect President Kibaki to reconvene Parliament in early March, when he will present his government's legislative agenda. End Comment
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